

REMARKS

The Applicant's undersigned attorney thanks the Examiner Janell A. Combs-Morillo for the telephone interview. During the interview the Applicant's attorney pointed out that the *Waldron* patent relates to an alloy that includes scandium and does not include silver. Therefore, the behavior of the claimed alloy cannot be predicted based on the *Waldron* patent. The Examiner indicated that she will consider this argument when it is presented in the response.

To obviate the objection to Claims 5-7 and 10, the applicant amended these claims to a Markush format.

Claims 1 and 15 have been amended to specify that the alloy is substantially free of scandium to obviate the rejections under § 102 and 103(a). The *Waldron* patent specifically states that scandium significantly alters the properties of the alloy:

The addition of scandium has been found to markedly alter the alloy chemistry and grain structure.

Waldron Patent, Column, 1, lines 58-60. A comparison of the results of the one-step and two-step aging of the *Waldron* Patent and this patent application shows that the alloy that containing scandium behaves differently from the alloys which do not include it. In the *Waldron* Patent, the elongation percentage was significantly increased by the two-step aging process. On the other hand, the elongation percentage in the present invention was significantly decreased by the two-step aging process. In view of the recognized difference in behavior of the scandium-containing aluminum alloys and those that do not include scandium, the results of the claimed treatments are not predictable. The *Waldron* Patent indicates that alloys containing scandium behave in a manner different from other Al-Cu alloys and since the comparison of the results of experiments in the present case and in the *Waldron* Patent confirm this difference. A two-step aging of a Al-Cu alloy

which does not contain Sc were not predictable from the Al-Cu-Sc alloy. Therefore, the claimed invention is not anticipated and is non-obvious.

The support for the scandium-free alloy is found in the specification. *See e.g.*, page 4, ll. 16-22, page 5, ll. 12-15.


New Claims 22-27 were added to further protect Applicant's invention. Claims 22-23 specify that the alloy includes silver. Claims 24-25 specify that the alloy is the AA2195 alloy. Claims 26-27 specify the temperature ranges of Claims 14 and 21. There is no teaching for combining the teachings of the *Waldron* patent that the teachings of the *Pickens et al.* Patent. Therefore, these claims are believed to be patentable over the references applied by the Examiner.

Accordingly, the Examiner is requested to withdraw the objection and the rejection and allow Claims 1-21, as amended, and new Claims 22-27.

The applicant believes that the application is now in condition for allowance; however, if any issues remain to be resolved the Applicant requests that the Examiner contact the undersigned attorney. A clean version and a marked-up version of the pending claims are attached hereto.

Date: February 28, 2003

Respectfully submitted,


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